

REMARKSI. Status of the Application

This paper responds to an election requirement mailed February 8, 2005. The original application was filed with claims 1-17. In response to a Restriction Requirement mailed August 29, 2001, Applicant amended claims 1 and 12 and added claims 18 and 19. In response to an Office action mailed February 6, 2002, which rejected all of the claims, Applicant amended claim 12, canceled claims 18 and 19, and added claims 20 and 21. A subsequent Final Office Action, which was mailed on November 1, 2002, maintained the rejection of claims 1-17, and rejected newly added claims 20 and 21. Applicant subsequently filed an RCE. In the submission that accompanied the RCE, Applicant amended claims 1-17, 20, and 21, and added claims 22-27. In response to a non-Final Office Action, mailed September 26, 2003, Applicant canceled claims 1-17 and 20-27 and added new claims 28-42. The present paper does not amend the claims. Accordingly, claims 28-42 are currently under consideration in this application.

By action taken here, Applicant in no way intends to surrender any range of equivalents beyond that needed to patentably distinguish the claimed invention as a whole over the prior art. Applicant expressly reserves all such equivalents that may fall in the range between Applicant's literal claim recitations and combinations taught or suggested by the prior art.

II. Time for Reply

This paper responds to an election requirement, which was mailed on February 8, 2005. The Office Action set a shortened statutory period for reply of one-month from the mailing date, making the response due on or before March 8, 2005. Applicant is filing this paper on March 8, 2005, which is within the shortened statutory period for reply.

III. Election of Species Requirement and Traversal

The Office Action required that the Applicant elect a single species of humectant, auxiliary agent, and neutral amino acid. As noted above, Applicant has provisionally

BEST AVAILABLE COPY

(Response to Election Requirement—page 2 of 3)

Serial No. 09/674,819
5774-01-MJA

elected, with traverse, propylene glycol, hydroxypropylcellulose, and glycine as specific species of humectant, auxiliary agent, and neutral amino acid, respectively. At least claims 28, 30, and 35 to 41 read on the elected species.

Applicant respectfully submits that the election of species requirement is unwarranted since the search and subsequent examination of species would not pose any additional burden on the Patent Office and therefore examination of the entire application is proper. Indeed, the number of species is reasonable and prior examinations of this case by the Patent office did not appear to be overly burdensome.

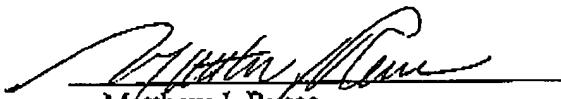
IV. Conclusion

In view of the foregoing, Applicant respectfully submits that all pending claims are patentable over the references of record. If the Examiner has any questions, Applicant requests that the Examiner telephone the undersigned.

Applicant believes that any fees associated with the filing of the present amendment have been identified in a transmittal that accompanies this paper. However, if any fees are required in connection with the filing of this paper, and such fees have not been identified in the accompanying transmittal, please charge deposit account number 23-0455.

Respectfully submitted,

Date: March 8, 2005



Matthew J. Russo
Registration No. 41,282
Warner-Lambert Company LLC
2800 Plymouth Road
Ann Arbor, MI 48105
Tel: (734) 622-1747
Fax: (734) 622-2928
Customer No. 28880

(Response to Election Requirement—page 3 of 3)